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## How the Iran deal violates the Constitution

by [CLARE M. LOPEZ](#) August 13, 2015



**A**mong the myriad other reasons why the recently concluded Iran nuclear agreement is a bad deal, the fact that it clearly violates the U.S. Constitution ought to be given more attention.

Article VI says "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State

to the Contrary notwithstanding."

The nuclear Non-Proliferation Treaty (NPT) obligates its nuclear-weapon State Parties "...not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices." The U.S. officially ratified the NPT on 5 March, 1970 and remains a party to this treaty currently. This means that the NPT is the Law of the Land. That the JCPOA's provisions explicitly obligate the U.S. to both "assist" and "encourage" (not to mention "defend") the Iranian regime's nuclear weapons program is thus a direct violation of the Constitution's Supremacy Clause (Article VI).

On 11 May 1995, the Treaty was extended indefinitely-meaning that the U.S. may not assist Iran in any way to acquire nuclear weapons, nor may Iran engage in activities to acquire nuclear weapons. Indefinitely. Not just for 8 years, or 10 years, or 15 years.

But according to Prof. Louis Rene Beres, Emeritus Professor of Political Science and International Law at Purdue University, "the new P5+1 Agreement explicitly contradicts this expectation." He adds, "Therefore, this contradiction also represents a conspicuous violation of U.S. law."

The fact that Iran also remains a signatory to the NPT seems almost incidental at this point. The NPT obligates all non-nuclear weapon State Parties "...not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive device." Surely, an agreement like the Iran nuclear deal violates this provision since Iran will be continue to enrich uranium, develop advanced centrifuges and acquire expertise in producing plutonium. Sanctions also will be lifted against Iran's ballistic missile program that experts believe is being developed as a nuclear weapons delivery system. At the same time, it is unclear whether Iran will be ever be required to account for past nuclear weapons-related activities.

There's another important treaty which the Iran nuclear agreement also appears to violate: the United Nations 1948 Convention on the Prevention and Punishment of the Crime of Genocide. Under the

provisions of this treaty, which also has the force of law for the U.S., all parties are obligated to report to the UN not only instances of actual genocide, but also expressions of 'incitement to genocide' (which is explicitly enumerated in Article III, section (c) as punishable under the Convention).

Iran ratified this treaty on 14 August 1956 and remains a signatory. The U.S. signed the Treaty in 1948 and ratified it on 25 November 1988. Both countries are signatories today and obligated under its provisions. In view of the Iranian regime's incessant and public calls for the destruction of the Jewish State of Israel, Iran long ago should have been held accountable for 'incitement to genocide' before the International Criminal Court. Israeli diplomats have proposed to charge former Iranian president Mahmud Ahmadinejad with state-sanctioned incitement to genocide under the Genocide Convention as have both Irwin Cotler, former Canadian Minister of Justice and currently Member of the Canadian Parliament, and former U.S. Ambassador to the UN John Bolton. Members of the U.S. Congress likewise in 2007 called upon the UN to charge Ahmadinejad with violating the Genocide Convention. To date, though, no international legal proceedings for incitement to genocide have moved forward against either Ahmadinejad or any other member of the Iranian regime leadership.

Logically, though, it should follow that as a signatory to the Genocide Convention, the U.S. would demand that the Iranian regime issue a public renunciation of past incitement to genocide against Israel before commencing negotiations with it. In fact, Sen. Marco Rubio (R-Fla.) in April 2015 offered an amendment to the Corker-Cardin bill that would have required the president to certify that Iran has publicly recognized Israel's right to exist as a Jewish State. Unfortunately, the amendment was not adopted.

For any member of Congress genuinely concerned about rule of law, it is incumbent upon them seriously to consider the legal ramifications of the Iran nuclear deal and its blatant disregard of binding U.S. law.

A version of this piece previously appeared on [The Hill](#).



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